Sectt. II-27—45,004—21-10-27.

Law (II) (1928) Department.

III SERIES.

G.O. No. 448

DATED 9-2-1928

[Despatch Abstract.]

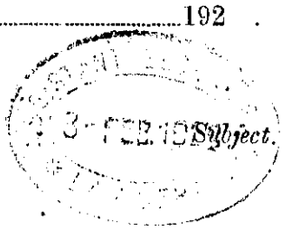
Courts.

Village Panchayat - Padu Tonse - Udipi taluk - South Kanara district - Election of a member - Petition - orders passed.

C.F. 30

LAW (GENERAL) DEPARTMENT.

Received ..... 192 . *Registered* ..... 1928.



Subject.

Courts - Village Panchayat - Udipi Taluk - Padu Tonse village - Election of Panchayatdar - Objection petition - Disposal without notice - orders requested.

ENCLOSURES.
No. .....
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Spare copies .....

Ref.B3- No. 484-28.

Station Camp Feringapet *Dated the* 31st January 1928.

From (Name) E. M. Gawne, Esquire, I.C.S.,

(Designation) Collector of South Kanara.

To The Secretary to the Government of Madras

Law (General) Department.

Madras.

Sir,

A vacancy having occurred in the office of a Panchayatdar of the Tonse West Panchayat Court in the Udipi Taluk of this District, an election was held on 14th November 1927 by the Tahsildar, Udipi, under orders of the Revenue Divisional Officer, Coondapoor. Three persons, Vincent Quodra, Raja Pujari and Sannada Ganaya were nominated at the election to the vacancy. The last named person having secured the largest number of votes was declared elected. One of the candidates, Raja Pujari filed an objection before the Revenue Divisional officer, Coondapoor, questioning the validity of the election on the ground that the procedure adopted at the election was irregular because

(a) all those present were allowed to vote for each candidate

although there was only one seat.

(b) the candidate last voted for introduced new electors at a late stage in the proceedings. The Revenue Divisional Officer dismissed the petition as frivolous without giving notice to the parties as required by Rule 18(a) of the Rules framed under the Village Courts Act. The objector has now filed a petition before me bringing to notice this irregularity.

2. I consider that the order of the Revenue Divisional Officer in this case being illegal is not final, as the formality prescribed by the rule has not been observed; neither is the petition frivolous as it raises two main issues,

(a) whether each person who attends ought to be allowed to vote for each candidate (as in this case) and not once only for each vacant seat. Where there are 3 candidates for instance a man might vote for both A & B, being anxious that either A or B but not C should succeed and

(b) whether a candidate is entitled to bring in fresh voters during the proceedings so that the total number of possible votes that a candidate put up last, can get is greater than the total number, the candidate first put up can get. I am informed that contested elections with 800 or 1000 persons present are becoming very unmanageable. Under the rules, the Collector of the District has no authority to interfere in cases of this kind. I therefore submit the case for the orders of Government and request that the order of the Revenue Divisional Officer be cancelled and a fresh election ordered.

3. In this connection, I would suggest for the consideration of Government whether it would not be desirable to make a provision in the rules empowering Collectors of Districts to interfere where a patent irregularity has occurred.

Your obedient servant,

For Collector.

.D'S.31/1.

Law (General) Department.

[Cr. 716 (3)] - From the Collr. of S. Kanara, Nc. Rep. B-3 4824-28, dated the 31st January 1928.

Courts - Village Panchayat - Padu Jonse - Udipi taluk - Objection to the election of a member -

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The Revenue Divisional Officer, Coondapoor, has dismissed as frivolous a petition, objecting to the election of a panchayatdar, without giving notice to the parties as required by rule 18 (a) of the rules under the Village Courts Act. The Collr. of South Kanara, before whom the objector has filed a petition, considers that the R.D.O's order being illegal is not final, and requests that his order be cancelled and a fresh election ordered. Attention is, in this connection, invited to the notes at page 6-8 of G.O. No. 3739. Law (Genl), dated the 25th November 1927, in which a similar question was dealt with. The Collr. may be informed on the lines

lines of that G.O.

So far as regards the question of finality of the Revenue Divl Officer's ordr. ~~Divisional Officer's order~~ 2 ~~P~~ The Collr. raises two other points, viz:—

(i) Whether each voter present should be allowed to vote for each of the candidates standing for election instead of for one only, when there is only a single seat vacant; (a) in para 2, page 2 of enr

(ii) Whether a candidate is entitled to bring in fresh voters in the course of the election; and (b) in para 2, page 2 of enr

(iii) whether it would not be desirable to make a provision in the rules empowering Collrs. of districts to interfere where a patent irregularity occurs. para 3, page 2 of enr

3. As regards (i), it is quite obvious that when there is only one seat vacant a voter can vote only for one candidate and no more. As to (ii), there does not appear to be any objection to a candidate bringing in voters so long as the voting lasts. | 5.2.78

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In regard to (iii), there seems to be no need to make any fresh provision in the rules. Where an irregularity occurs such as the one brought to notice in this case, the Collr. would be at liberty to direct the Revenue Divisional Officer to go into the whole matter again after giving proper notice to the objector.

4. A draft order is submitted for approval.

7.2.28

6-2-28.

8/2/28

Board's II-5 (a)—38,004—26-10-2. (5)

	Date.	Initials.
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Law (General) DEPARTMENT.

Courts—Village Panchayat—Padu Tonse—Udipi Taluk—South Kanara district—Election of a member—Petition—Orders passed.

READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO:—

C. No. 716 B From the Coll. of S. Kanara No. B-3-484-28 Rep, dated 31-1-1928.

" " " " ..... " ..... 192 .

" " " " ..... " ..... 192 .

ORDER.

Rise.

No. 448, dated 9/2/1928

The Govt consider that the Revenue Divisional officer, Coondapoor, should have issued notice to the petitioner, M. Ry. Raja Poojari (i.e. the objector, who questioned the validity of the election on certain specified grounds), and to the person elected and should have afforded them an opportunity to be heard before passing orders under rule 18(a) of the rules under the

the Village Courts Act. Though the orders of the Revenue Divisional officer are final under rule 18(b) of the above rules, such finality can only attach to orders passed <u>after notice</u> and not to those passed <u>without notice</u> as the latter are bad for want of jurisdiction. Rule 18(b) does not preclude the Revenue Divisional officer from going into the whole matter again after giving proper notice to the objector and the other parties concerned. The Govt. of South Kanara is therefore requested to instruct the Revenue Divisional officer to give the requisite notice and pass orders after hearing them if they should appear before him.

2. As in the case now brought to notice, it is always open to the Collector to direct the Revenue Divisional officer to

to enquire into the matter afresh whenever the latter passes an order without observing the formalities prescribed by the rules. The Govt. do not therefore consider it necessary to make any provision in the statutory rules empowering Collectors of districts to interfere when any irregularity occurs.

3. As regards points (a) and (b) raised in para. 2 of his letter, the Govt. agree with the Collr. that it is obvious that when there is only a single seat vacant an elector can vote only for one of the candidates standing for election and that if he votes for more than one the vote will be invalid. The Govt. do not consider that there is any objection to a candidate for election bringing in his voters at any time

so

so long as the voting [redacted] lasts. Under rule 11 of the rules framed under the Act, it is open to the officer presiding at the election to fix the time for the commencement and close of ~~up to which the~~ voting ~~shall continue.~~

6-2-28.

7.2.28

To the Collr. of S. Kanara.